



Seattle Human Rights Commission

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February 15, 2013

The Honorable Richard Jones
United States Courthouse
700 Stewart Street, Suite 13128
Seattle, WA 98101 - 9906

Re: Solitary Confinement of Katherine Olejnik, Matthew Duran, and Maddy Pfeiffer

Dear Judge Jones:

The Seattle Human Rights Commission (the Commission) writes on behalf of Katherine Olejnik, Matthew Duran, and Maddy Pfeiffer to urge their immediate release from the Segregated Housing Unit (SHU) at the SeaTac Federal Detention Center. The Commission, in accordance with the conclusions of the U.N. Special Rapporteur on Torture, firmly believes that the use of solitary confinement, whether for punitive, administrative or protective purposes, violates the human rights of the confined individual. Special Rapporteur on Torture, *Interim Report on Torture and other cruel, inhuman or degrading treatment or punishment*, U.N. Doc. A/66/268 (Aug. 5, 2011) (delivered at the 66th Session of the U.N. General Assembly) [hereinafter *Interim Report on Torture*].

Article 5 of the Universal Declaration of Human Rights (UNHR), article 7 of the International Covenant on Civil and Political Rights (ICCPR) and articles 1 and 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) prohibit subjecting prisoners or other detained persons to “torture or to cruel, inhuman or degrading treatment or punishment.” CAT places an additional affirmative burden on any Party State to take action, including *judicial* action, to prevent such acts by anyone acting in an official capacity. The specific aim of article 7 of the ICCPR, and by extension the CAT, is to protect the *mental* as well as bodily integrity of the prisoner or detainee.

The profound damage to mental integrity brought about by the type of solitary confinement experienced by Ms. Olejnik, Mr. Duran, and Mr. Pfeiffer - 23 to 24 hours a day of isolated confinement in a space measuring approximately 60 to 80 square feet for a prolonged and indefinite period – is well documented with remarkable scientific consensus. Changes in brain activity characteristic of delirium and stupor are observable after only a few days in solitary confinement while irreversible decline in brain activity begins to occur after seven days. Acute organic brain changes characterized by “subjectively painful response to external stimuli; perceptual distortions, illusions, and hallucinations . . . analogous to those produced by hallucinogenic drugs; severe panic



attacks; difficulty with thinking, concentration and memory; intrusive obsessional thoughts; overt paranoia; and problems with impulse control” are the psychiatric hallmarks of solitary confinement to which no one is immune.

As observed by Harvard Medical School psychiatrist and renowned solitary confinement expert, Stuart Grassian:

*The restriction of environmental stimulation and social isolation associated with confinement in solitary are strikingly toxic to mental functioning, producing a stuporous condition associated with perceptual and cognitive impairment and affective disturbances. In more severe cases, inmates so confined have developed florid delirium—a confusional psychosis with intense agitation, fearfulness, and disorganization. **But even those inmate[s] who are more psychologically resilient inevitably suffer severe psychological pain as a result of such confinement, especially when the confinement is prolonged, and especially when the individual experiences this confinement as being the product of an arbitrary exercise of power and intimidation.** Moreover, the harm caused by such confinement may result in prolonged or permanent psychiatric disability, including impairments, which may seriously reduce the inmate’s capacity to reintegrate into the broader community upon release from prison.*

Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 Wash. U. J. L. & Pol’y 325, 354 (2006) (*emphasis added*).

Dr. Grassian’s conclusions mirror those articulated by the United States Supreme Court well over a 100 years ago in In re Medley where it characterized solitary confinement as an “infamous punishment” and described its effects as such:

[a] considerable number of the prisoners [in solitary] fell, *after even a short confinement*, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide, while those who stood the ordeal better were not generally reformed and in most cases did not recover sufficient mental activity to be of any subsequent service to the community (*emphasis added*).

134 U.S. 160, 168 (1890).

More recently in 2011, referencing the severe psychological pain of solitary confinement documented by Dr. Grassian and others, the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment concluded that solitary confinement when used as a punishment or for a breach of prison discipline, during



pretrial detention, indefinitely or for a prolonged period is, at a minimum, cruel, inhuman or degrading treatment or punishment, and may rise to the level of torture. *Interim report on Torture* at 19-25. In his opinion, confinement that exceeds 15 days constitutes torture and should be permanently banned. *Id.* at 23. This is also the position of the U.N. Committee Against Torture, the governing body that monitors the implementation of the Convention Against Torture. *Annual Report of the Committee against Torture*, U.N. Doc. A/67/44 at 31 (2011-2012).

Under customary international law (UDHR) and as a Party State to the ICCPR and the CAT (both treaties were ratified by the Senate), the United States has committed to realizing its treaty obligations and duties domestically. At the 2010 U.N. Human Rights Council Universal Periodic Review, the U.S. for the first time since ratifying the ICCPR and the CAT, adopted in full the Council's recommendation that the U.S., "[e]nsure the full enjoyment of human rights by persons deprived of their liberty, including by way of ensuring treatment in maximum security prisons in conformity with international law [emphasis added]." Human Rights Council, *Report of the Working Group on the Universal Periodic Review, United States of America, Addendum*, U.N. Doc. A/HRC/16/11/Add.1 at 3 (March 8, 2011) (supporting recommendation 177).

On the heels of the U.S. government's full-fledged commitment to treat prisoners held in maximum security prisons consonant with international law standards, U.S. Senator Dick Durbin held the first ever congressional hearing on the human rights, fiscal and public safety consequences of solitary confinement in U.S. prisons. At the Senate Judiciary Committee Subcommittee on the Constitution, Civil Rights and Human Rights June 19, 2012 hearing, Craig Haney, a professor of psychology at the University of California, Santa Cruz and a recognized expert in solitary confinement testified that "solitary confinement places all of the prisoners exposed to it at grave risk of harm" and characterized it as a "long discredited practice". As a result of the congressional hearing, the Federal Bureau of Prisons agreed just a few weeks ago to conduct for the first time an "independent and comprehensive" assessment of its solitary confinement practices.

Article 10 of the ICCPR directs that, "all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person." The psychological evidence is overwhelming that solitary confinement as currently implemented in U.S. prisons induces disintegration of the psyche in those subjected to it. A practice whose consequence, whether intentional or not, is the disintegration of the psyche is not consonant with respect for the inherent dignity of the human person and is inhumane.

While even the critics of solitary confinement recognize that its use may be justified in an exceptional case where a strict monitoring protocol is followed, that is not the case here. There is no evidence that Katherine Olejnik, Matthew Duran, and Maddy Pfeiffer are the "worst of the worst". It is Kafkaesque to suggest that keeping them in an environment



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known to cause serious and lasting psychological harm is for their own protection. There is simply no credible reason for their continued detention in solitary confinement.

The Seattle Human Rights Commission respectfully requests the violation of their human rights cease and they be ordered released immediately from solitary confinement.

Sincerely,

Chris Stearns, Chairman

Catherine Moore, Commissioner

Cc: Jennifer Kaplan, Esq.
Kimberly N. Gordon, Esq.
Robert Flenbaugh, Esq.
U.S. Attorney Jenny A. Durkan